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**AMENDMENT TO H.R. 5658, AS REPORTED  
OFFERED BY MR. WAXMAN OF CALIFORNIA**

Add at the end of division A the following new title:

**1 TITLE XVII—GOVERNMENTWIDE  
2 ACQUISITION IMPROVEMENTS**

Sec. 1701. Short title.

Subtitle A—Enhanced Competition

- Sec. 1711. Minimizing sole-source contracts.
- Sec. 1712. Limitation on length of certain noncompetitive contracts.
- Sec. 1713. Requirement for purchase of property and services pursuant to multiple award contracts.
- Sec. 1714. Appropriate limits on value of sole source contracts.

Subtitle B—Curbing Abuse-Prone Contracts

- Sec. 1721. Regulations to minimize the inappropriate use of cost-reimbursement contracts.
- Sec. 1722. Preventing abuse of interagency contracts.
- Sec. 1723. Prohibitions on the use of lead systems integrators.
- Sec. 1724. Regulations on excessive pass-through charges.
- Sec. 1725. Linking of award and incentive fees to acquisition outcomes.
- Sec. 1726. Minimizing abuse of commercial services item authority.

Subtitle C—Acquisition Workforce

- Sec. 1731. Acquisition workforce development fund.
- Sec. 1732. Contingency contracting corps.

Subtitle D—Anti-Fraud Provisions

- Sec. 1741. Protection for contractor employees from reprisal for disclosure of certain information.
- Sec. 1742. Mandatory Fraud Reporting.
- Sec. 1743. Access of General Accounting Office to Contractor Employees.
- Sec. 1744. Preventing conflicts of interest.

Subtitle E—Enhanced Contract Transparency

- Sec. 1751. Disclosure of CEO salaries.
- Sec. 1752. Database for contracting officers and suspension and debarment of officials.
- Sec. 1753. Review of database.
- Sec. 1754. Disclosure in applications.
- Sec. 1755. Role of interagency committee.

Sec. 1756. Authorization of independent agencies.

Sec. 1757. Authorization of appropriations.

Sec. 1758. Report to Congress.

Sec. 1759. Improvements to the Federal procurement data system.

**1 SEC. 1701. SHORT TITLE.**

2       This title may be cited as the “Clean Contracint Act  
3 of 2008”.

**4 Subtitle A—Enhanced Competition**

**5 SEC. 1711. MINIMIZING SOLE-SOURCE CONTRACTS.**

6       (a) PLANS REQUIRED.—Subject to subsection (c),  
7 the head of each executive agency covered by title III of  
8 the Federal Property and Administrative Services Act of  
9 1949 (41 U.S.C. 251 et seq.) or, in the case of the Depart-  
10 ment of Defense, the Under Secretary of Defense for Ac-  
11 quisition, Technology, and Logistics, shall develop and im-  
12 plement a plan to minimize, to the maximum extent prac-  
13 ticable, the use of contracts entered into using procedures  
14 other than competitive procedures by the agency or de-  
15 partment concerned. The plan shall contain measurable  
16 goals and shall be completed and submitted to the Com-  
17 mittee on Oversight and Government Reform of the House  
18 of Representatives, the Committee on Homeland Security  
19 and Governmental Affairs of the Senate, and the Commit-  
20 tees on Appropriations of the House of Representatives  
21 and the Senate and, in the case of the Department of De-  
22 fense and the Department of Energy, the Committees on  
23 Armed Services of the Senate and the House of Represent-

1 atives, with a copy provided to the Comptroller General,  
2 not later than 1 year after the date of the enactment of  
3 this Act.

4 (b) COMPTROLLER GENERAL REVIEW.—The Comp-  
5 troller General shall review the plans provided under sub-  
6 section (a) and submit a report to Congress on the plans  
7 not later than 18 months after the date of the enactment  
8 of this Act.

9 (c) REQUIREMENT LIMITED TO CERTAIN AGEN-  
10 CIES.—The requirement of subsection (a) shall apply only  
11 to those agencies that awarded contracts in a total amount  
12 of at least \$1,000,000,000 in the fiscal year preceding the  
13 fiscal year in which the report is submitted.

14 (d) CERTAIN CONTRACTS EXCLUDED.—The fol-  
15 lowing contracts shall not be included in the plans devel-  
16 oped and implemented under subsection (a):

17 (1) Contracts entered into under section 8(a) of  
18 the Small Business Act (15 U.S.C. 637(a)), in  
19 amounts less than the amounts listed in paragraph  
20 (1)(D)(i)(II) of that section.

21 (2) Contracts entered into under section 31 (15  
22 U.S.C. 657a) of such Act, in amounts less than the  
23 amounts listed in subsection (b)(2)(A)(ii) of that  
24 section.

1           (3) Contracts entered into under section 36 of  
2           such Act (15 U.S.C. 657f), in amounts less than the  
3           amounts listed in subsection (a)(2) of that section.

4 **SEC. 1712. LIMITATION ON LENGTH OF CERTAIN NON-**  
5 **COMPETITIVE CONTRACTS.**

6           (a) **CIVILIAN AGENCY CONTRACTS.**—Section 303(d)  
7 of the Federal Property and Administrative Services Act  
8 of 1949 (41 U.S.C. 253(d)) is amended by adding at the  
9 end the following new paragraph:

10           “(3)(A) The contract period of a contract de-  
11 scribed in subparagraph (B) that is entered into by  
12 an executive agency pursuant to the authority pro-  
13 vided under subsection (c)(2)—

14           “(i) may not exceed the time necessary—

15           “(I) to meet the unusual and compel-  
16 ling requirements of the work to be per-  
17 formed under the contract; and

18           “(II) for the executive agency to enter  
19 into another contract for the required  
20 goods or services through the use of com-  
21 petitive procedures; and

22           “(ii) may not exceed 270 days unless the  
23 head of the executive agency entering into such  
24 contract determines that exceptional cir-  
25 cumstances apply.

1           “(B) This paragraph applies to any contract in  
2           an amount greater than \$1,000,000.”.

3           (b) DEFENSE CONTRACTS.—Section 2304(d) of title  
4 10, United States Code, is amended by adding at the end  
5 the following new paragraph:

6           “(3)(A) The contract period of a contract de-  
7           scribed in subparagraph (B) that is entered into by  
8           an agency pursuant to the authority provided under  
9           subsection (c)(2)—

10                   “(i) may not exceed the time necessary—

11                           “(I) to meet the unusual and compel-  
12                           ling requirements of the work to be per-  
13                           formed under the contract; and

14                           “(II) for the agency to enter into an-  
15                           other contract for the required goods or  
16                           services through the use of competitive  
17                           procedures; and

18                           “(ii) may not exceed 270 days unless the  
19                           head of the agency entering into such contract  
20                           determines that exceptional circumstances  
21                           apply.

22           “(B) This paragraph applies to any contract in  
23           an amount greater than \$1,000,000.”.

1 **SEC. 1713. REQUIREMENT FOR PURCHASE OF PROPERTY**  
2 **AND SERVICES PURSUANT TO MULTIPLE**  
3 **AWARD CONTRACTS.**

4 (a) **REGULATIONS REQUIRED.**—Not later than 12  
5 months after the date of the enactment of this Act, the  
6 Federal Acquisition Regulation shall be amended to re-  
7 quire enhanced competition in the purchase of property  
8 and services by all executive agencies pursuant to multiple  
9 award contracts.

10 (b) **CONTENT OF REGULATIONS.**—

11 (1) **IN GENERAL.**—The regulations required by  
12 subsection (a) shall provide, at a minimum, that  
13 each individual purchase of property or services in  
14 excess of the simplified acquisition threshold that is  
15 made under a multiple award contract shall be made  
16 on a competitive basis unless a contracting officer—

17 (A) waives the requirement on the basis of  
18 a determination that—

19 (i) one of the circumstances described  
20 in paragraphs (1) through (4) of section  
21 303J(b) of the Federal Property and Ad-  
22 ministrative Services Act of 1949 (41  
23 U.S.C. 253j(b)) or section 2304c(b) of title  
24 10, United States Code, applies to such in-  
25 dividual purchase; or

1 (ii) a law expressly authorizes or re-  
2 quires that the purchase be made from a  
3 specified source; and

4 (B) justifies the determination in writing.

5 (2) COMPETITIVE BASIS PROCEDURES.—For  
6 purposes of this subsection, an individual purchase  
7 of property or services is made on a competitive  
8 basis only if it is made pursuant to procedures  
9 that—

10 (A) except as provided in paragraph (3),  
11 require fair notice of the intent to make that  
12 purchase (including a description of the work to  
13 be performed and the basis on which the selec-  
14 tion will be made) to be provided to all contrac-  
15 tors offering such property or services under  
16 the multiple award contract; and

17 (B) afford all contractors responding to  
18 the notice a fair opportunity to make an offer  
19 and have that offer fairly considered by the offi-  
20 cial making the purchase.

21 (3) EXCEPTION TO NOTICE REQUIREMENT.—

22 (A) IN GENERAL.—Notwithstanding para-  
23 graph (2), and subject to subparagraph (B), no-  
24 tice may be provided to fewer than all contrac-  
25 tors offering such property or services under a

1 multiple award contract as described in sub-  
2 section (d)(2) if notice is provided to as many  
3 contractors as practicable.

4 (B) LIMITATION ON EXCEPTION.—A pur-  
5 chase may not be made pursuant to a notice  
6 that is provided to fewer than all contractors  
7 under subparagraph (A) unless—

8 (i) offers were received from at least  
9 3 qualified contractors; or

10 (ii) a contracting officer of the execu-  
11 tive agency determines in writing that no  
12 additional qualified contractors were able  
13 to be identified despite reasonable efforts  
14 to do so.

15 (c) PUBLIC NOTICE REQUIREMENTS RELATED TO  
16 SOLE SOURCE TASK OR DELIVERY ORDERS.—Not later  
17 than 12 months after the date of the enactment of this  
18 Act, the Federal Acquisition Regulation shall be amended  
19 to require the head of each executive agency to publish  
20 on—

21 (1) FedBizOpps notice of all sole source task or  
22 delivery orders in excess of the simplified acquisition  
23 threshold that are placed against multiple award  
24 contracts not later than 14 days after such orders



1 are placed, except in the event of extraordinary cir-  
2 cumstances or classified orders; and

3 (2) the website of the agency and through a  
4 Governmentwide website selected by the Adminis-  
5 trator for Federal Procurement Policy the deter-  
6 minations required by (b)(1)(B) related to sole  
7 source task or delivery orders placed against mul-  
8 tiple award contracts not later than 14 days after  
9 such orders are placed, except in the event of ex-  
10 traordinary circumstances or classified orders.

11 (3) This subsection does not require the public  
12 availability of information that is exempt from public  
13 disclosure under section 552(b) of title 5, United  
14 States Code.

15 (d) DEFINITIONS.—In this section:

16 (1) The term “individual purchase” means a  
17 task order, delivery order, or other purchase.

18 (2) The term “multiple award contract”  
19 means—

20 (A) a contract that is entered into by the  
21 Administrator of General Services under the  
22 multiple award schedule program referred to in  
23 section 2302(2)(C) of title 10, United States  
24 Code;

1 (B) a multiple award task order contract  
2 that is entered into under the authority of sec-  
3 tions 2304a through 2304d of title 10, United  
4 States Code, or sections 303H through 303K of  
5 the Federal Property and Administrative Serv-  
6 ices Act of 1949 (41 U.S.C. 253h through  
7 253k); and

8 (C) any other indefinite delivery, indefinite  
9 quantity contract that is entered into by the  
10 head of an executive agency with 2 or more  
11 sources pursuant to the same solicitation.

12 (3) The term "sole source task or delivery  
13 order" means any order that does not follow the  
14 competitive base procedures in paragraphs (b)(2) or  
15 (b)(3).

16 (e) **APPLICABILITY.**—The regulations required by  
17 subsection (a) shall apply to all individual purchases of  
18 property or services that are made under multiple award  
19 contracts on or after such effective date, without regard  
20 to whether the multiple award contracts were entered into  
21 before, on, or after such effective date.

22 **SEC. 1714. APPROPRIATE LIMITS ON VALUE OF SOLE**  
23 **SOURCE CONTRACTS.**

24 (a) **APPROPRIATE LIMITS.**—If a law is not enacted  
25 by December 31, 2008, revising the limits referred to in

1 this subsection, the Administrator for Federal Procure-  
2 ment Policy, in consultation with the Administrator for  
3 Small Business, shall establish appropriate limits on the  
4 value of contracts awarded without the use of competitive  
5 procedures to participants in the program established by  
6 section 8(a) of the Small Business Act (15 U.S.C. 637(a))  
7 that are not subject to the limits on the value of such con-  
8 tracts established by paragraph (1)(D) of section 8(a) of  
9 such Act.

10 (b) CONSULTATION.—In establishing any limit de-  
11 scribed in subsection (a), the Administrator for Federal  
12 Procurement Policy shall consult with representatives of  
13 the affected program participants. The Administrator  
14 shall also take into account—

15 (1) any special circumstances and needs of the  
16 affected program participants; and

17 (2) the advantages of promoting competition in  
18 Federal contracting.

19 (c) .—In establishing appropriate limits under sub-  
20 section (a), the Administrator for Federal Procurement  
21 Policy may, if the Administrator considers appropriate,  
22 apply the limits to contracts awarded to Native Hawaiian  
23 Organizations.

24 (d) EFFECTIVE DATE.—The limits on the value of  
25 contracts required by subsection (a) shall be effective 1

1 year after such limits are established by the  
Administrator.

## 3     **Subtitle B—Curbing Abuse-Prone** 4                   **Contracts**

### 5     **SEC. 1721. REGULATIONS TO MINIMIZE THE INAPPRO-** 6                   **PRIATE USE OF COST-REIMBURSEMENT CON-** 7                   **TRACTS.**

8         (a) IN GENERAL.—Not later than 12 months after  
9 the date of the enactment of this Act, the Federal Acquisi-  
10 tion Regulation shall be amended to minimize the inappro-  
11 priate use of cost-reimbursement contracts and to ensure  
12 the proper use of such contracts.

13         (b) CONTENT.—The regulations required under sub-  
14 section (a) shall—

15             (1) identify, at a minimum—

16                 (A) the circumstances under which cost re-  
17 imbursement contracts or task or delivery or-  
18 ders are appropriate;

19                 (B) the acquisition plan facts necessary to  
20 support a decision to use cost reimbursement  
21 contracts;

22                 (C) the acquisition workforce resources  
23 necessary to award and manage cost reimburse-  
24 ment contracts; and

1           (2) establish a requirement for each executive  
2       agency to—

3                   (A) annually assess its use of cost-reim-  
4       bursement contracts;

5                   (B) establish and implement metrics to  
6       measure progress toward minimizing any inap-  
7       propriate use of cost-reimbursement contracts  
8       identified during the assessment process; and

9                   (C) prepare and submit an annual report  
10      to the Office of Management and Budget as-  
11      sessing progress in meeting the metrics estab-  
12      lished in (B).

13      (c) COMPTROLLER GENERAL EVALUATIONS.—With-  
14      in one year of the completion of the first annual reports  
15      required by subsection (b)(2)(C), the Comptroller General  
16      shall review the progress of agencies in implementing the  
17      regulations required by (a).

18      (d) REPORT.—Subject to subsection (f), the Director  
19      of the Office of Management and Budget shall submit an  
20      annual report to Congressional committees identified in  
21      subparagraph (e) and the Comptroller General on the use  
22      of cost-reimbursement contracts and task or delivery or-  
23      ders by all Federal agencies, including the Department of  
24      Defense. The report shall be submitted no later than

1 March 1 and will cover the fiscal year ending September  
2 30 of the prior year. The report shall include—

3 (1) the total number and value of contracts  
4 awarded and orders issued during the covered fiscal  
5 year;

6 (2) the number and value of cost-reimburse-  
7 ment contracts awarded and orders issued during  
8 the covered fiscal year;

9 (3) a list of contracts and task and delivery or-  
10 ders identified in subparagraph (2) exceeding ten  
11 million dollars (\$10,000,000), whose period of per-  
12 formance, including options, exceeded three years;  
13 the reasons why such contracts or orders could not  
14 be priced or converted to a fixed-price basis; and the  
15 actions being taken by the agency to do so;

16 (4) a certification by the contracting agency  
17 that for each contract identified in subparagraph (3)  
18 that an appropriate number of trained acquisition  
19 personnel, consistent with the complexity and risk  
20 associated with the contract or order, have been as-  
21 signed to provide oversight of the contractor's per-  
22 formance; and

23 (5) a description of each agency's actions to as-  
24 sure the appropriate use of cost-reimbursement con-  
25 tracts.

1 (e) CONGRESSIONAL COMMITTEES DEFINED.—The  
2 report required by subsection (d) shall be submitted to the  
3 Committee on Oversight and Government Reform of the  
4 House of Representatives; the Committee on Homeland  
5 Security and Governmental Affairs of the Senate; the  
6 Committees on Appropriations of the House of Represent-  
7 atives and the Senate; and, in the case of the Department  
8 of Defense and the Department of Energy, the Commit-  
9 tees on Armed Services of the Senate and the House of  
10 Representatives.

11 (f) REQUIREMENTS LIMITED TO CERTAIN AGEN-  
12 CIES.—The requirements of subsections (b) and (d) shall  
13 apply only to those agencies that awarded contracts and  
14 issued orders in a total amount of at least \$1,000,000,000  
15 in the fiscal year proceeding the fiscal year in which the  
16 assessments and reports are submitted.

17 **SEC. 1722. PREVENTING ABUSE OF INTERAGENCY CON-**  
18 **TRACTS.**

19 (a) OFFICE OF MANAGEMENT AND BUDGET POLICY  
20 GUIDANCE.—

21 (1) REPORT AND GUIDELINES.—Not later than  
22 one year after the date of the enactment of this Act,  
23 the Director of the Office of Management and Budg-  
24 et shall—

1 (A) submit to Congress a comprehensive  
2 report on interagency acquisitions, including  
3 their frequency of use, management controls,  
4 cost-effectiveness, and savings generated; and

5 (B) issue guidelines to assist the heads of  
6 executive agencies in improving the manage-  
7 ment of interagency acquisitions.

8 (2) MATTERS COVERED BY GUIDELINES.—For  
9 purposes of paragraph (1)(B), the Director shall in-  
10 clude guidelines on the following matters:

11 (A) Procedures for the use of interagency  
12 acquisitions to maximize competition, deliver  
13 best value to executive agencies, and minimize  
14 waste, fraud, and abuse.

15 (B) Categories of contracting inappropriate  
16 for interagency acquisition, due to high risk of  
17 waste, fraud, or abuse.

18 (C) Requirements for training acquisition  
19 workforce personnel in the proper use of inter-  
20 agency acquisitions.

21 (b) REGULATIONS REQUIRED.—Not later than one  
22 year after the date of the enactment of this Act, the Fed-  
23 eral Acquisition Regulation shall be revised to require that  
24 all interagency acquisitions—



1           (1) include a written agreement between the re-  
2           requesting agency and the servicing agency assigning  
3           responsibility for the administration and manage-  
4           ment of the contract;

5           (2) include a determination that an interagency  
6           acquisition is the best procurement alternative; and

7           (3) include sufficient documentation to ensure  
8           an adequate audit.

9           (c) AGENCY REPORTING REQUIREMENT.—The senior  
10          procurement executive for each executive agency shall, as  
11          directed by the Director of the Office of Management and  
12          Budget, submit to the Director annual reports on the ac-  
13          tions taken by the executive agency pursuant to the guide-  
14          lines issued under subsection (a).

15          (d) DEFINITIONS.—In this section:

16           (1) The term “executive agency” has the mean-  
17           ing given such term in section 4(1) of the Office of  
18           Federal Procurement Policy Act (41 U.S.C. 403(1)).

19           (2) The term “head of executive agency” means  
20           the head of an executive agency except that, in the  
21           case of a military department, the term means the  
22           Secretary of Defense.

23           (3) The term “interagency acquisition” means  
24           a procedure by which an executive agency needing  
25           supplies or services (the requesting agency) obtains

1       them from another executive agency (the servicing  
2       agency). The term includes acquisitions under sec-  
3       tion 1535 of title 31, United States Code (commonly  
4       referred to as the "Economy Act", Federal Supply  
5       Schedules above \$500,000, and Governmentwide ac-  
6       quisition contracts.

7       **SEC. 1723. PROHIBITIONS ON THE USE OF LEAD SYSTEMS**  
8               **INTEGRATORS.**

9       (a) PROHIBITION ON NEW LEAD SYSTEMS INTEGRA-  
10       TORS.—(1) Effective October 1, 2010, the head of an ex-  
11       ecutive agency may not award a new contract for lead sys-  
12       tems integrator functions in the acquisition of a major sys-  
13       tem.

14       (2) PROHIBITION ON LEAD SYSTEMS INTEGRATORS  
15       BEYOND DEMONSTRATION LEVEL PHASE.—Effective on  
16       the date of the enactment of this Act, an executive agency  
17       may award a new contract for lead systems integrator  
18       functions in the acquisition of a major system only if—

19               (A) the contract for the major system does not  
20       proceed beyond the demonstration phase-level; or

21               (B) the head of the agency determines in writ-  
22       ing that it would not be practicable to carry out ac-  
23       quisition without continuing to use a contractor to  
24       perform lead systems integrator functions and that  
25       doing so is in the best interest of the agency.

1       (3) REQUIREMENTS RELATING TO DETERMINA-  
2 TIONS.—A determination under paragraph (2)(A)—

3           (A) shall specify the reasons why it would not  
4 be practicable to carry out the acquisition continuing  
5 to use a contractor to perform lead integrator func-  
6 tions (including a discussion of alternatives, such as  
7 the use of the agency workforce, or a system engi-  
8 neering and technical assistance contractor);

9           (B) shall include a plan for phasing out the use  
10 of contracted lead systems integrator functions over  
11 the shortest period of time consistent with the inter-  
12 est of the government;

13           (C) may not be delegated below the level of the  
14 Chief Acquisition Officer; and

15           (D) shall be provided to the Committee on  
16 Oversight and Government Reform in the House of  
17 Representatives and the Committee on Homeland  
18 Security and Governmental Affairs in the Senate at  
19 least 45 days before the award of a contract pursu-  
20 ant to the determination.

21       (b) ACQUISITION WORKFORCE.—

22           (1) REQUIREMENT.—The head of an executive  
23 agency shall ensure that the acquisition workforce is  
24 of the appropriate size and skill level necessary—

1 (A) to accomplish inherently governmental  
2 functions related to acquisition of major sys-  
3 tems; and

4 (B) to effectuate the purpose of subsection  
5 (a) to minimize and eventually eliminate the use  
6 of contractors to perform lead systems inte-  
7 grator functions.

8 (2) REPORT.—The head of the agency shall an-  
9 nually include an update on the progress made in  
10 complying with paragraph (1) in the agency's Per-  
11 formance and Accountability Report.

12 (c) EXCEPTION FOR CONTRACTS FOR OTHER MAN-  
13 AGEMENT SERVICES.—The head of an executive agency  
14 may continue to award contracts for the procurement of  
15 services the primary purpose of which is to perform acqui-  
16 sition support functions with respect to the development  
17 or production of a major system, if the following condi-  
18 tions are met with respect to each such contract:

19 (1) The contract prohibits the contractor from  
20 performing inherently governmental functions.

21 (2) The head of the agency responsible for the  
22 development or production of the major system en-  
23 sures that Federal employees are responsible for de-  
24 termining courses of action to be taken in the best  
25 interest of the government.

1           (3) The contract requires that the prime con-  
2           tractor for the contract may not advise or rec-  
3           ommend the award of a contract or subcontract for  
4           the development or production of the major system  
5           to an entity owned in whole or in part by the prime  
6           contractor.

7           (d) DEFINITIONS.—In this section:

8           (1) LEAD SYSTEMS INTEGRATOR.—The term  
9           “lead systems integrator” means—

10           (A) a prime contractor for the development  
11           or production of a major system, if the prime  
12           contractor is not expected at the time of award  
13           to perform a substantial portion of the work on  
14           the system and the major subsystems; or

15           (B) a prime contractor under a contract  
16           for procurement of services the primary purpose  
17           of which to perform acquisition functions closely  
18           associated with inherently governmental func-  
19           tions with respect to the development or pro-  
20           duction of a major system.

21           (2) MAJOR SYSTEM.—The term “major system”  
22           has the meaning given such term in section 2302d  
23           of title 10, United States Code.

1 (3) DEMONSTRATION PHASE LEVEL.—For pur-  
2 poses of this section, the term “demonstration phase  
3 level” means—

4 (A) work performed prior to first article  
5 testing and approval (as defined in part 9.3 of  
6 the Federal Acquisition Regulation; or

7 (B) a level comparable to the level identi-  
8 fied in subparagraph (A) which the FAR Coun-  
9 cil determines, by regulation, after consider-  
10 ation of the definition of low-rate initial produc-  
11 tion (as defined in section 2400 of title 10,  
12 United States Code.

13 (e) .—This section does not apply to the Department  
14 of Defense.

15 **SEC. 1724. REGULATIONS ON EXCESSIVE PASS-THROUGH**  
16 **CHARGES.**

17 (a) REGULATIONS REQUIRED.—

18 (1) Not later than 180 days after the date of  
19 enactment of this Act, the Federal Acquisition Regu-  
20 lation shall be amended ensure that excessive pass-  
21 through charges on contracts or (or task or delivery  
22 orders) are not paid by the Federal Government.

23 (2) SCOPE OF REGULATIONS.—The regulations  
24 prescribed under this subsection—

1 (A) shall not apply to any firm, fixed-price  
2 contract or subcontract (or task or delivery  
3 order) that is—

4 (i) awarded on the basis of adequate  
5 price competition; or

6 (ii) for the acquisition of a commercial  
7 item, as defined in section 4(12) of the Of-  
8 fice of Federal Procurement Policy Act (41  
9 U.S.C. 403(12)); and

10 (B) may include such additional exceptions  
11 as the Federal Acquisition Regulation Council  
12 determines to be necessary in the interest of the  
13 government.

14 (3) DEFINITION.—In this section, the term “ex-  
15 cessive pass-through charge” means a charge to the  
16 Government by the contractor or subcontractor that  
17 is for overhead or profit on work performed by a  
18 lower-tier contractor or subcontractor (other than  
19 charges for the direct costs of managing lower-tier  
20 contracts and subcontracts and overhead and profit  
21 based on such direct costs) and for which the con-  
22 tractor or subcontractor adds no, or negligible, value  
23 to a contract or subcontract.

24 (b) .—This section does not apply to the Department  
25 of Defense.

1   **SEC. 1725. LINKING OF AWARD AND INCENTIVE FEES TO**  
2                   **ACQUISITION OUTCOMES.**

3       (a) GUIDANCE ON LINKING OF AWARD AND INCEN-  
4   TIVE FEES TO ACQUISITION OUTCOMES.—Not later than  
5   12 months after the date of the enactment of this Act,  
6   the Federal Acquisition Regulation shall be amended to  
7   provide executive agencies with instructions, including  
8   definitions, on the appropriate use of award and incentive  
9   fees in Federal acquisition programs.

10      (b) ELEMENTS.—The regulations under subsection  
11   (a) shall—

12           (1) ensure that all new contracts using award  
13       fees link such fees to acquisition outcomes (which  
14       shall be defined in terms of program cost, schedule,  
15       and performance);

16           (2) establish standards for identifying the ap-  
17       propriate level of officials authorized to approve the  
18       use of award and incentive fees in new contracts;

19           (3) provide guidance on the circumstances in  
20       which contractor performance may be judged to be  
21       “excellent” or “superior” and the percentage of the  
22       available award fee which contractors should be paid  
23       for such performance;

24           (4) establish standards for determining the per-  
25       centage of the available award fee, if any, which con-  
26       tractors should be paid for performance that is



1       judged to be “acceptable”, “average”, “expected”,  
2       “good”, or “satisfactory”;

3           (5) ensure that no award fee may be paid for  
4       contractor performance that is judged to be below  
5       satisfactory performance or performance that does  
6       not meet the basic requirements of the contract;

7           (6) provide specific direction on the cir-  
8       cumstances, if any, in which it may be appropriate  
9       to roll over award fees that are not earned in one  
10      award fee period to a subsequent award fee period  
11      or periods;

12          (7) ensure consistent use of guidelines and defi-  
13      nitions relating to award and incentive fees across  
14      the Federal Government;

15          (8) ensure that each executive agency—

16              (A) collects relevant data on award and in-  
17      centive fees paid to contractors; and

18              (B) has mechanisms in place to evaluate  
19      such data on a regular basis;

20          (9) include performance measures to evaluate  
21      the effectiveness of award and incentive fees as a  
22      tool for improving contractor performance and  
23      achieving desired program outcomes; and

24          (10) provide mechanisms for sharing proven in-  
25      centive strategies for the acquisition of different

1 types of products and services among contracting  
2 and program management officials.

3 **SEC. 1726. MINIMIZING ABUSE OF COMMERCIAL SERVICES**

4 **ITEM AUTHORITY.**

5 (a) **REGULATIONS REQUIRED.**—Not later than 180  
6 days after the date of the enactment of this Act, the Fed-  
7 eral Acquisition Regulation shall be amended for the pro-  
8 curement of commercial services.

9 (b) **APPLICABILITY OF COMMERCIAL PROCE-**  
10 **DURES.**—

11 (1) **SERVICES OF A TYPE SOLD IN MARKET-**  
12 **PLACE.**—The regulations modified pursuant to sub-  
13 section (a) shall ensure that services that are not of-  
14 fered and sold competitively in substantial quantities  
15 in the commercial marketplace, but are of a type of-  
16 fered and sold competitively in substantial quantities  
17 in the commercial marketplace, may be treated as  
18 commercial items for purposes of section 254b of  
19 title 41, United States Code (relating to truth in ne-  
20 gotiations), only if the contracting officer determines  
21 in writing that the offeror has submitted sufficient  
22 information to evaluate, through price analysis, the  
23 reasonableness of the price for such services.

24 (2) **INFORMATION SUBMITTED.**—To the extent  
25 necessary to make a determination under paragraph

1 (1), the contracting officer may request the offeror  
2 to submit—

3 (A) prices paid for the same or similar  
4 commercial items under comparable terms and  
5 conditions by both government and commercial  
6 customers; and

7 (B) if the contracting officer determines  
8 that the information described in subparagraph  
9 (A) is not sufficient to determine the reason-  
10 ableness of price, other relevant information re-  
11 garding the basis for price or cost, including in-  
12 formation on labor costs, material costs, and  
13 overhead rates.

14 (c) TIME-AND-MATERIALS CONTRACTS.—

15 (1) COMMERCIAL ITEM ACQUISITIONS.—The  
16 regulations pursuant to subsection (a) shall ensure  
17 that procedures applicable to time-and-materials  
18 contracts and labor-hour contracts for commercial  
19 item acquisitions may be used only for the following:

20 (A) Services procured for support of a  
21 commercial item, as described in section  
22 4(12)(E) of the Office Federal Procurement  
23 Policy Act (41 U.S.C. 403(12)(E)).

24 (B) Emergency repair services.

1 (C) Any other commercial services only to  
2 the extent that the head of the agency con-  
3 cerned approves a determination in writing by  
4 the contracting officer that—

5 (i) the services to be acquired are  
6 commercial services as defined in section  
7 4(12)(F) of the Office of Federal Procure-  
8 ment Policy Act (41 U.S.C. 403(12)(F));

9 (ii) if the services to be acquired are  
10 subject to subsection (b), the offeror of the  
11 services has submitted sufficient informa-  
12 tion in accordance with that subsection;

13 (iii) such services are commonly sold  
14 to the general public through use of time-  
15 and-materials or labor-hour contracts; and

16 (iv) the use of a time-and-materials or  
17 labor-hour contract type is in the best in-  
18 terest of the Government.

19 (2) NON-COMMERCIAL ITEM ACQUISITIONS.—

20 Nothing in this subsection shall be construed to pre-  
21 clude the use of procedures applicable to time-and-  
22 materials contracts and labor-hour contracts for  
23 non-commercial item acquisitions for the acquisition  
24 of any category of services.

## 1   **Subtitle C—Acquisition Workforce**

### 2   **SEC. 1731. ACQUISITION WORKFORCE DEVELOPMENT** 3                   **FUND.**

4       (a) **PURPOSE.**—The purpose of this section is to en-  
5 sure that there are resources available to recruit, hire,  
6 educate, train and retain members of the Federal acquisi-  
7 tion workforce with the requisite competencies and skills  
8 to ensure that the government receives best value property  
9 and services in its acquisitions.

10      (b) **ESTABLISHMENT OF FUND.**—Title I of the Fed-  
11 eral Property and Administrative Services Act of 1949 (40  
12 U.S.C. 101, et seq) is amended by adding the following  
13 new section:

### 14   **“SEC. 324. ACQUISITION WORKFORCE DEVELOPMENT** 15                   **FUND.**

16       “(a) The Administrator of General Services shall es-  
17 tablish an acquisition workforce development fund.

18           “(1) The Administrator shall manage the fund  
19 through the Federal Acquisition Institute to recruit,  
20 hire, educate, train and retain members of the acqui-  
21 sition workforce of the executive agencies other than  
22 the Department of Defense.

23           “(2) The Administrator, in consultation with  
24 the Administrator for Federal Procurement Policy  
25 and the Chief Acquisition Officers or Senior Pro-

1       curement Executives, as appropriate, of the execu-  
2       tive agencies, other than the Department of Defense,  
3       shall issue detailed guidance for the administration  
4       and use of the Fund. Such guidance shall include  
5       provisions—

6               “(A) requiring agencies to identify mem-  
7       bers of their acquisition workforce consistent  
8       with section 433(i) of title 41.

9               “(B) identifying areas of need in the acqui-  
10      sition workforce for which amounts in the Fund  
11      may be used, including—

12               “(i) changes to the types of skills  
13      needed;

14               “(ii) incentives to retain qualified, ex-  
15      perienced personnel; and

16               “(iii) incentives for attracting new,  
17      high-quality personnel;

18               “(C) describing the manner and timing for  
19      applications for amounts in the Fund to be sub-  
20      mitted;

21               “(D) describing the evaluation criteria to  
22      be used for approving or prioritizing applica-  
23      tions for amounts in the Fund in any fiscal  
24      year; and

1           “(E) describing measurable objectives of  
2           performance for determining whether amounts  
3           in the Fund are being used in compliance with  
4           this section.

5           “(3) The Director of the Office of Management  
6           and Budget shall be the approving official for any  
7           disbursements from the Fund.

8           “(4) The costs of administering the fund, in-  
9           cluding the direct and indirect costs of those employ-  
10          ees, not to exceed 5 percent per annum, shall be  
11          paid out of the fund.

12          “(5) Amounts in the fund may not be used to  
13          pay the base salary of any full-time equivalent posi-  
14          tion currently filled as of date of enactment of this  
15          Act.

16          “(b) There shall be credited to the acquisition work-  
17          force development fund the following percentages of the  
18          value of funds expended by executive agencies for service  
19          contracts, other than services relating to research and de-  
20          velopment and services relating to construction:

21               “(1) for fiscal year 2009, 0.5 percent.

22               “(2) for fiscal year 2010, 1 percent.

23               “(3) for fiscal year 2011, 1.5 percent.

24               “(4) for any fiscal year after fiscal year 2011,  
25          2 percent.

1       “(c) The Director of the Office and Management and  
2 Budget may reduce the amount to be credited upon a de-  
3 termination that the funds being credited are excess to  
4 the needs of the acquisition workforce development fund.  
5 In no event shall the Director of the Office of Management  
6 Budget reduce the percentage for any fiscal year below  
7 a percentage that results in the deposit in a fiscal year  
8 of an amount equal to the following

9               “(1) for fiscal year 2009, 75,000,000.

10              “(2) for fiscal year 2010, 100,000,000.

11              “(3) for fiscal year 2011, 125,000,000.

12              “(4) for an fiscal year after 2011, 150,000,000.

13       “(d) Not later than 30 days after the end of fiscal  
14 year 2008, and 30 days after the end of each fiscal year  
15 quarter thereafter, the head of each executive agency shall  
16 remit to the General Services Administration the amount  
17 required to be credited to the fund with respect to the  
18 contracts, leases, task and delivery order described in sub-  
19 section (b).

20       “(e) The Administrator of General Services, through  
21 the Office of the Chief Acquisition Officer, shall ensure  
22 that funds collected under this section are not used for  
23 any purposes other than the purposes specified in sub-  
24 section (a).



1       “(f) Amounts credited to the fund shall be in addition  
2 to funds requested and appropriated for salaries, benefits,  
3 education and training for all current acquisition work-  
4 force members.

5       “(g) Amounts credited to the fund shall remain avail-  
6 able until expended.

7       “(h) Not later than 60 days after the end of each  
8 fiscal year beginning with fiscal year 2008, the Adminis-  
9 trator of General Services shall submit to the congres-  
10 sional committees identified in subsection (i) a report on  
11 the operation of the fund during such fiscal year. Each  
12 report shall include, for the fiscal year covered by such  
13 report, the following:

14       “(1) A statement of the amounts remitted to  
15 the Administrator for crediting to the Fund for such  
16 fiscal year by each executive agency and a statement  
17 of the amounts credited to the Fund.

18       “(2) A description of the expenditures made  
19 from the Fund, including the purpose of such ex-  
20 penditures.

21       “(3) A description and assessment of improve-  
22 ments in the Federal acquisition workforce resulting  
23 from such expenditures, including the extent to  
24 which the fund has been used to increase the num-  
25 ber of individuals in the acquisition workforce rel-

1       ative to the number of individuals in the acquisition  
2       workforce as of the date of enactment.

3       “(4) Recommendations for additional authori-  
4       ties to fulfill the purpose of the Fund.

5       “(5) A statement of the balance remaining in  
6       the Fund at the end of such fiscal year.

7       “(i) The report required by subsection (h) shall be  
8       submitted to the Committee on Oversight and Government  
9       Reform of the House of Representatives; the Committee  
10      on Homeland Security and Governmental Affairs of the  
11      Senate; and the Committees on Appropriations of the  
12      House of Representatives and the Senate.

13      “(j) No expired balances appropriated prior to the  
14      date of the enactment of this Act may be used to make  
15      any payment to the Acquisition Workforce Development  
16      Fund.”.

17      (c) EXCEPTION.—This section and the amendments  
18      made by this section shall not apply to the acquisition  
19      workforce of the Department of Defense.

20      **SEC. 1732. CONTINGENCY CONTRACTING CORPS.**

21      The Office of Federal Procurement Policy Act (41  
22      U.S.C. 403 et seq.), as amended by section 102, is further  
23      amended by adding at the end the following new section:

1   **“SEC. 44. CONTINGENCY CONTRACTING CORPS.**

2           “(a) ESTABLISHMENT.—The Administrator of Gen-  
3   eral Services in consultation with the Director of the Of-  
4   fice of Management and Budget, the Secretary of Defense  
5   and the Secretary of Homeland Security, shall establish  
6   a Governmentwide Contingency Contracting Corps (in this  
7   section, referred to as the ‘Corps’). The members of the  
8   Corps shall be available for deployment in responding to  
9   an emergency or major disaster, or a contingency oper-  
10   ation, within or outside the continental United States.

11          “(b) APPLICABILITY.—The authorities provided in  
12   this section apply with respect to any procurement of  
13   property or services by or for an executive agency that,  
14   as determined by the head of such executive agency, are  
15   to be used—

16           “(1) in support of a contingency operation as  
17   defined in section 101(a)(13) of title 10, United  
18   States Code; or

19           “(2) to respond to an emergency or major dis-  
20   aster as defined in section 5122 of title 41, United  
21   States Code.

22          “(c) MEMBERSHIP.—Membership in the Corps shall  
23   be voluntary and open to all Federal employees and uni-  
24   formed members of the Armed Services, who are currently  
25   members of the Federal acquisition workforce. As a condi-  
26   tion precedent to membership in the Corps, each volunteer

1 will execute a mobility agreement consistent with the pro-  
2 visions included in sections 3371 through 3375 of title 5,  
3 United States Code.

4 “(d) EDUCATION AND TRAINING.—The Director of  
5 the Federal Acquisition Institute, in consultation with the  
6 Chief Acquisition Officers Council shall establish edu-  
7 cational and training requirements for members of the  
8 Corps, and shall pay for these additional requirements  
9 from funds available in the acquisition workforce develop-  
10 ment fund or the Department of Defense Acquisition  
11 Workforce Development Fund.

12 “(e) CLOTHING AND EQUIPMENT.—The Adminis-  
13 trator shall identify any necessary clothing and equipment  
14 requirements, and shall pay for this clothing and equip-  
15 ment from funds available in the acquisition workforce de-  
16 velopment fund or the Department of Defense Acquisition  
17 Workforce Development Fund.

18 “(f) SALARY.—The salaries for members of the Corps  
19 shall be paid by their parent agencies out of funds avail-  
20 able.

21 “(g) AUTHORITY TO DEPLOY THE CORPS.—The Di-  
22 rector of the Office of Management and Budget shall have  
23 the authority to determine when members of the Corps  
24 shall be deployed, in consultation with the head of the  
25 agency or agencies employing the members to be deployed.

1 “(h) ANNUAL REPORT.—

2 “(1) IN GENERAL.—The Administrator of Gen-  
3 eral Services shall provide to the Committee on  
4 Homeland Security and Governmental Affairs and  
5 the Committee on Armed Services of the Senate and  
6 the Committee on Oversight and Government Re-  
7 form and the Committee on Armed Services of the  
8 House of Representatives an annual report on the  
9 status of the Contingency Contracting Corps as of  
10 September 30 of each fiscal year.

11 “(2) CONTENT.—At a minimum, each report  
12 under paragraph (1) shall include the number of  
13 members of the Contingency Contracting Corps, the  
14 total cost of operating the program, the number of  
15 deployments of members of the program, and the  
16 performance of members of the program in deploy-  
17 ment.”.

18 **Subtitle D—Anti-Fraud Provisions**

19 **SEC. 1741. PROTECTION FOR CONTRACTOR EMPLOYEES**

20 **FROM REPRISAL FOR DISCLOSURE OF CER-**  
21 **TAIN INFORMATION.**

22 (a) INCREASED PROTECTION FROM REPRISAL.—

23 Subsection (a) of section 315 of the Federal Property and  
24 Administrative Services Act of 1949 (41 U.S.C. 265(a),  
25 is amended—

1           (1) by striking “disclosing to a Member of Con-  
2           gress” and inserting “disclosing to a Member of  
3           Congress, a representative of a committee of Con-  
4           gress, an Inspector General, the Government Ac-  
5           countability Office, an employee of an executive  
6           agency responsible for contract oversight or manage-  
7           ment,”; and

8           (2) by striking “information relating to a sub-  
9           stantial violation of law related to a contract (includ-  
10          ing the competition for or negotiation of a con-  
11          tract)” and inserting “information that the employee  
12          reasonably believes is evidence of gross mismanage-  
13          ment of an executive agency contract or grant, a  
14          gross waste of executive agency funds, a substantial  
15          and specific danger to public health or safety, or a  
16          violation of law related to an executive agency con-  
17          tract (including the competition for or negotiation of  
18          a contract) or grant”.

19          (b) CLARIFICATION OF INSPECTOR GENERAL DE-  
20          TERMINATION.—Subsection (b) of such section is amend-  
21          ed—

22               (1) by inserting “(1)” after “INVESTIGATION  
23               OF COMPLAINTS.—” and

24               (2) by adding at the end the following new  
25               paragraph:

1       “(2)(A) Except as provided under subparagraph (B),  
2 the Inspector General shall make a determination that a  
3 complaint is frivolous or submit a report under paragraph  
4 (1) within 180 days after receiving the complaint.

5       “(B) If the Inspector General is unable to complete  
6 an investigation in time to submit a report within the 180-  
7 day period specified in subparagraph (A) and the person  
8 submitting the complaint agrees to an extension of time,  
9 the Inspector General shall submit a report under para-  
10 graph (1) within such additional period of time as shall  
11 be agreed upon between the Inspector General and the  
12 person submitting the complaint.”.

13       (c) ACCELERATION OF SCHEDULE FOR DENYING RE-  
14 LIEF OR PROVIDING REMEDY.—Subsection (c) of such  
15 section is amended—

16           (1) in paragraph (1), by striking “If the head  
17 of an executive agency determines that a contractor  
18 has subjected a person to a reprisal prohibited by  
19 subsection (a), the head of the agency may” and in-  
20 serting after “(1)” the following: “Not later than 30  
21 days after receiving an Inspector General report pur-  
22 suant to subsection (b), the head of an executive  
23 agency concerned shall determine whether there is  
24 sufficient basis to conclude that the contractor con-  
25 cerned has subjected the complainant to a reprisal

1 prohibited by subsection (a) and shall either issue an  
2 order denying relief or shall”;

3 (2) by redesignating paragraphs (2) and (3) as  
4 paragraphs (4) and (5), respectively; and

5 (3) by inserting after paragraph (1) the fol-  
6 lowing new paragraphs:

7 “(2) If the head of an executive agency issues  
8 an order denying relief under paragraph (1) or has  
9 not issued an order within 210 days after the sub-  
10 mission of a complaint under subsection (b), or in  
11 the case of an extension of time under paragraph  
12 (b)(2)(B), not later than 30 days after the expira-  
13 tion of the extension of time, and there is no show-  
14 ing that such delay is due to the bad faith of the  
15 complainant, the complainant shall be deemed to  
16 have exhausted all administrative remedies with re-  
17 spect to the complaint, and the complainant may  
18 bring a de novo action at law or equity against the  
19 contractor to seek compensatory damages and other  
20 relief available under this section in the appropriate  
21 district court of the United States, which shall have  
22 jurisdiction over such an action without regard to  
23 the amount in controversy. Such an action shall, at  
24 the request of either party to the action, be tried by  
25 the court with a jury.



1           “(3) An Inspector General determination and  
2           an agency head order denying relief under para-  
3           graph (2) shall be admissible in evidence in any de  
4           novo action at law or equity brought pursuant to  
5           this subsection.”.

6           (d) DEFINITIONS.—Subsection (e) of such section is  
7           amended in paragraph (2), by inserting “or a grant” after  
8           “a contract”.

9           **SEC. 1742. MANDATORY FRAUD REPORTING.**

10          (a) \_\_\_\_\_.—The Federal Acquisition Regulation  
11          shall be amended within 180 days after the date of the  
12          enactment of this Act pursuant to FAR Case 2007-006  
13          (as published at 72 Fed Reg. 64019, November 14, 2007)  
14          or any follow-on FAR case to include provisions that re-  
15          quire timely notification by Federal contractors of viola-  
16          tions of Federal criminal law or overpayments in connec-  
17          tion with the award or performance of covered contracts  
18          or subcontracts, including those performed outside the  
19          United States and those for commercial items.

20          (b) \_\_\_\_\_.—In this Act, the term “covered con-  
21          tract” means any contract in an amount greater than  
22          \$5,000,000 and more than 120 days in duration.

1   **SEC. 1743. ACCESS OF GENERAL ACCOUNTING OFFICE TO**  
2                   **CONTRACTOR EMPLOYEES.**

3       (a) CIVILIAN AGENCIES.—Section 304C of the Fed-  
4   eral Property and Administrative Services Act of 1949 (41  
5   U.S.C. 254d) is amended in subsection (c)(1) by inserting  
6   after “records” “, or interview any employee,”.

7       (b) DEFENSE AGENCIES.—Section 2313 of title 10,  
8   United States Code, is amended in subsection (c)(1) by  
9   inserting after “records” “, or interview any employee,”.

10   **SEC. 1744. PREVENTING CONFLICTS OF INTEREST.**

11       (a) ORGANIZATIONAL CONFLICTS OF INTEREST.—  
12   Not later than 12 months after the date of the enactment  
13   of this Act, the Administrator of the Office of Federal  
14   Procurement Policy shall review the Federal Acquisition  
15   Regulation to determine whether it contains sufficiently  
16   rigorous, comprehensive, and uniform Governmentwide  
17   policies to prevent and mitigate organizational conflicts of  
18   interest in Federal contracting. In reviewing such regula-  
19   tions, the Administrator and the Federal Acquisition Reg-  
20   ulatory Council, in consultation with the Office of Govern-  
21   ment Ethics, shall, at a minimum, make appropriate revi-  
22   sions to the regulations to—

23           (1) establish a standard organizational conflict  
24       of interest clause, or a set of standard organizational  
25       conflict of interest clauses, for inclusion in solicita-  
26       tions and contracts that set forth the contractor’s

1 responsibilities with respect to its employees, sub-  
2 contractors, partners, and any other affiliated orga-  
3 nizations or individuals;

4 (2) address conflicts that may arise in the con-  
5 text of developing requirements and statements of  
6 work, the selection process, and contract administra-  
7 tion;

8 (3) ensure that adequate organizational conflict  
9 of interest safeguards are enacted in situations in  
10 which contractors are employed by the Federal Gov-  
11 ernment to oversee other contractors or are hired to  
12 assist in the acquisition process; and

13 (4) ensure that any policies or clauses developed  
14 address conflicts of interest that may arise from fi-  
15 nancial interests, unfair competitive advantages, and  
16 impaired objectivity.

17 (b) PERSONAL CONFLICTS OF INTEREST.—Not later  
18 than 12 months after the date of the enactment of this  
19 Act, the Federal Acquisition Regulation shall be amended  
20 to establish uniform, Governmentwide policies to prevent  
21 personal conflicts of interest by contractor employees in  
22 Federal contracting. In developing such regulations, the  
23 Federal Acquisition Regulatory Council, in consultation  
24 with the Office of Government Ethics, shall, at a min-  
25 imum—

1           (1) develop a standard contractor employee per-  
2           sonal conflicts of interest clause or a set of standard  
3           clauses for inclusion in solicitations and contracts  
4           that set forth the contractor's responsibility to en-  
5           sure that employees who are performing contracted  
6           services for the Federal Government are free of per-  
7           sonal conflicts of interest;

8           (2) identify the contracting methods, types and  
9           services that raise heightened concerns for potential  
10          conflicts of interest; and

11          (3) establish specified principles, examples, a  
12          definition of personal conflicts of interest relevant to  
13          contractor employees working on Federal Govern-  
14          ment contracts, specific prohibitions, and where ap-  
15          plicable, greater disclosure for certain contractor em-  
16          ployees, that will accomplish the end objective of eth-  
17          ical behavior.

18          (c) BEST PRACTICES.—The Administrator of the Of-  
19          fice of Federal Procurement Policy, in consultation with  
20          the Office of Governmentwide Ethics, shall develop and  
21          maintain a repository of best practices relating to the pre-  
22          vention and mitigation of organizational and personal con-  
23          flicts of interest.

1       **Subtitle E—Enhanced Contract**  
2                   **Transparency**

3       **SEC. 1751. DISCLOSURE OF CEO SALARIES.**

4       (a) DISCLOSURE REQUIREMENTS.—Section 2(b)(1)  
5 of the Federal Funding Accountability and Transparency  
6 Act (Public Law 109–282; 31 U.S.C. 6101 note) is  
7 amended—

8           (1) by striking “and” at the end of subpara-  
9 graph (E);

10          (2) by redesignating subparagraph (F) as sub-  
11 paragraph (G); and

12          (3) by inserting after subparagraph (E) the fol-  
13 lowing new subparagraph:

14               “(F) the names and total compensation of  
15 the five most highly compensated officers of the  
16 entity if—

17                   “(i) the entity in the preceding fiscal  
18 year received—

19                           “(I) 80 percent or more of its an-  
20 nual gross revenues in Federal  
21 awards; and

22                           “(II) \$25,000,000 or more in an-  
23 nual gross revenues from Federal  
24 awards; and

1                   “(ii) the public does not have access  
2                   to information about the compensation of  
3                   the senior executives of the entity through  
4                   periodic reports filed under section 13(a)  
5                   or 15(d) of the Securities Exchange Act of  
6                   1934 (15 U.S.C. 78m(a), 78o(d)) or sec-  
7                   tion 6104 of the Internal Revenue Code of  
8                   1986.”.

9           (b) REGULATIONS REQUIRED.—The Director of the  
10   Office of Management and Budget shall promulgate regu-  
11   lations to implement the amendment made by this Act.  
12   Such regulations shall include a definition of “total com-  
13   pensation” that is consistent with regulations of the Secu-  
14   rities and Exchange Commission at section 402 of part  
15   229 of title 17 of the Code of Federal Regulations (or any  
16   subsequent regulation).

17   **SEC. 1752. DATABASE FOR CONTRACTING OFFICERS AND**  
18                   **SUSPENSION AND DEBARMENT OFFICIALS.**

19           (a) IN GENERAL.—Subject to the authority, direc-  
20   tion, and control of the Director of the Office of Manage-  
21   ment and Budget, the Administrator of General Services  
22   shall establish and maintain a database of information re-  
23   garding integrity and performance of persons awarded  
24   Federal contracts and grants for use by Federal officials  
25   having authority over contracts and grants.

1 (b) PERSONS COVERED.—The database shall cover  
2 any person awarded a Federal contract or grant if any  
3 information described in subsection (c) exists with respect  
4 to such person.

5 (c) INFORMATION INCLUDED.—With respect to a  
6 person awarded a Federal contract or grant, the database  
7 shall include information (in the form of a brief descrip-  
8 tion) for at least the most recent 5-year period regard-  
9 ing—

10 (1) any civil or criminal proceeding, or any ad-  
11 ministrative proceeding to the extent that such pro-  
12 ceeding results in both a finding of fault on the part  
13 of the person and the payment of restitution to a  
14 government of \$5,000 or more, concluded by the  
15 Federal Government or any State government  
16 against the person, and any amount paid by the per-  
17 son to the Federal Government or a State govern-  
18 ment;

19 (2) all Federal contracts and grants awarded to  
20 the person that were terminated in such period due  
21 to default;

22 (3) all Federal suspensions and debarments of  
23 the person in that period;

24 (4) all Federal administrative agreements en-  
25 tered into by the person and the Federal Govern-

1       ment in that period to resolve a suspension or debar-  
2       ment proceeding and, to the maximum extent prac-  
3       ticable, agreements involving a suspension or debar-  
4       ment proceeding entered into by the person and a  
5       State government in that period; and

6           (5) all final findings by a Federal official in  
7       that period that the person has been determined not  
8       to be a responsible source under either subparagraph  
9       (C) or (D) of section 4(7) of the Office of Federal  
10      Procurement Policy Act (41 U.S.C. 403(7)).

11      (d) REQUIREMENTS RELATING TO INFORMATION IN  
12      DATABASE.—

13           (1) DIRECT INPUT AND UPDATE.—The Admin-  
14      istrator shall design and maintain the database in a  
15      manner that allows the appropriate officials of each  
16      Federal agency to directly input and update in the  
17      database information relating to actions it has taken  
18      with regard to contractors or grant recipients.

19           (2) TIMELINESS AND ACCURACY.—The Admin-  
20      istrator shall develop policies to require—

21                   (A) the timely and accurate input of infor-  
22                   mation into the database;

23                   (B) notification of any covered person  
24                   when information relevant to the person is en-  
25                   tered into the database; and



1 (C) an opportunity for any covered person  
2 to append comments to information about such  
3 person in the database.

4 (e) AVAILABILITY.—

5 (1) AVAILABILITY TO ALL FEDERAL AGEN-  
6 CIES.—The Administrator shall make the database  
7 available to all Federal agencies.

8 (2) AVAILABILITY TO THE PUBLIC.—The Ad-  
9 ministrator shall make the database available to the  
10 public by posting the database on the General Serv-  
11 ices Administration website.

12 (3) LIMITATION.—This subsection does not re-  
13 quire the public availability of information that is  
14 exempt from public disclosure under section 552(b)  
15 of title 5, United States Code.

16 **SEC. 1753. REVIEW OF DATABASE.**

17 (a) REQUIREMENT TO REVIEW DATABASE.—Prior to  
18 the award of a contract or grant, an official responsible  
19 for awarding a contract or grant shall review the database  
20 established under section 2.

21 (b) REQUIREMENT TO DOCUMENT PRESENT RE-  
22 SPONSIBILITY.—In the case of a prospective awardee of  
23 a contract or grant against which a judgment or conviction  
24 has been rendered more than once within any 3-year pe-  
25 riod for the same or similar offences, if each judgment

1 or conviction is a cause for debarment, the official respon-  
2 sible for awarding the contract or grant shall document  
3 why the prospective awardee is considered presently re-  
4 sponsible.

5 **SEC. 1754. DISCLOSURE IN APPLICATIONS.**

6 (a) REQUIREMENT.—Not later than 180 days after  
7 the date of the enactment of this Act, Federal regulations  
8 shall be amended to require that in applying for any Fed-  
9 eral grant or submitting a proposal or bid for any Federal  
10 contract a person shall disclose in writing information de-  
11 scribed in section 2(c).

12 (b) COVERED CONTRACTS AND GRANTS.—This sec-  
13 tion shall apply only to contracts and grants in an amount  
14 greater than the simplified acquisition threshold, as de-  
15 fined in section 4(11) of the Office of Federal Procure-  
16 ment Policy Act (41 U.S.C. 401(11)).

17 **SEC. 1755. ROLE OF INTERAGENCY COMMITTEE.**

18 (a) REQUIREMENT.—The Interagency Committee on  
19 Debarment and Suspension shall—

20 (1) resolve issues regarding which of several  
21 Federal agencies is the lead agency having responsi-  
22 bility to initiate suspension or debarment pro-  
23 ceedings;

24 (2) coordinate actions among interested agen-  
25 cies with respect to such action;

1           (3) encourage and assist Federal agencies in  
2           entering into cooperative efforts to pool resources  
3           and achieve operational efficiencies in the Govern-  
4           mentwide suspension and debarment system;

5           (4) recommend to the Office of Management  
6           and Budget changes to Government suspension and  
7           debarment system and its rules, if such rec-  
8           ommendations are approved by a majority of the  
9           Interagency Committee;

10          (5) authorize the Office of Management and  
11          Budget to issue guidelines that implement those rec-  
12          ommendations;

13          (6) authorize the chair of the Committee to es-  
14          tablish subcommittees as appropriate to best enable  
15          the Interagency Committee to carry out its func-  
16          tions; and

17          (7) submit to the Congress an annual report  
18          on—

19                 (A) the progress and efforts to improve the  
20                 suspension and debarment system;

21                 (B) member agencies' active participation  
22                 in the committee's work; and

23                 (C) a summary of each agency's activities  
24                 and accomplishments in the Governmentwide  
25                 debarment system.

1 (b) DEFINITION.—The term “Interagency Committee  
2 on Debarment and Suspension” means such committee  
3 constituted under sections 4 and 5 and of Executive Order  
4 12549.

5 **SEC. 1756. AUTHORIZATION OF INDEPENDENT AGENCIES.**

6 Any agency, commission, or organization of the Fed-  
7 eral Government to which Executive Order 12549 does not  
8 apply is authorized to participate in the Governmentwide  
9 suspension and debarment system and may recognize the  
10 suspension or debarment issued by an executive branch  
11 agency in its own procurement or assistance activities.

12 **SEC. 1757. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated to the Ad-  
14 ministrator of General Services such funds as may be nec-  
15 essary to establish the database described in section 2.

16 **SEC. 1758. REPORT TO CONGRESS.**

17 (a) REPORT REQUIRED.—Not later than 180 days  
18 after the date of the enactment of this Act, the Adminis-  
19 trator of General Services shall submit to Congress a re-  
20 port.

21 (b) CONTENTS OF REPORT.—The report shall con-  
22 tain the following:

23 (1) A list of all databases that include informa-  
24 tion about Federal contracting and Federal grants.

1           (2) Recommendations for further legislation or  
2       administrative action that the Administrator con-  
3       siders appropriate to create a centralized, com-  
4       prehensive Federal contracting and Federal grant  
5       database.

6       **SEC. 1759. IMPROVEMENTS TO THE FEDERAL PROCURE-**  
7               **MENT DATA SYSTEM.**

8       (a) **ENHANCED TRANSPARENCY ON INTERAGENCY**  
9       **CONTRACTING AND OTHER TRANSACTIONS.**—Not later  
10      than 12 months after the date of the enactment of this  
11      Act, the Director of the Office of Management and Budget  
12      shall direct appropriate revisions to the Federal Procure-  
13      ment Data System or any successor system to facilitate  
14      the collection of complete, timely, and reliable data on  
15      interagency contracting actions and on transactions other  
16      than contracts, grants, and cooperative agreements issued  
17      pursuant to section 2371 of title 10, United States Code,  
18      or similar authorities. The Director shall ensure that data,  
19      consistent with what is collected for contract actions, is  
20      obtained on—

21           (1) interagency contracting actions, including  
22      data at the task or delivery-order level; and

23           (2) other transactions, including the initial  
24      award and any subsequent modifications awarded or  
25      orders issued.

1 (b) AMENDMENT.—Subsection (d) of section 19 of  
2 the Office of Federal Procurement Policy Act (41 U.S.C.  
3 417(d)) is amended to read as follows:

4 “(d) TRANSMISSION AND DATA ENTRY OF INFORMA-  
5 TION.—The head of each executive agency shall ensure the  
6 accuracy of the information included in the record estab-  
7 lished and maintained by such agency under subsection  
8 (a) and shall timely transmit such information to the Gen-  
9 eral Services Administration for entry into the Federal  
10 Procurement Data System referred to in section 6(d)(4),  
11 or any successor system.”.

